

BUREAU OF AUTOMOTIVE REPAIR

INITIAL STATEMENT OF REASONS

HEARING DATES:

May 10 and 12, 2006

**SUBJECT MATTER OF
PROPOSED REGULATIONS:**

Invoice Requirements; Itemization of Prices
for Parts and Services.

SECTIONS AFFECTED:

§ 3356 of Title 16, Division 33, Chapter 1,
Article 7 of the California Code of
Regulations.

SPECIFIC PURPOSE OF REGULATORY PROPOSAL:

The proposed regulatory action will clarify and reinforce the current invoice itemization requirements applicable to automotive repair dealers (ARD). This will help to ensure that all consumers will have full and complete disclosure and itemization of all charges in their dealings with ARDs. This is not only consistent with BAR's principal mandate to protect the interests of the public, but is consistent with the spirit and intent of those provisions of the Automotive Repair Act¹ that relate to open disclosure and itemization in estimates, work orders and invoices. Furthermore, the proposed action is consistent with and will recognize the current standard of practice in the industry.

This proposal makes minor clarifying changes to existing regulation by reorganizing the current provisions of Section 3356 of Title 16 of the California Code of Regulations, and applying the word "separately" to the description of both labor (service work) and parts, as provided in Section 9884.8 of the Business and Professions Code. The proposed changes will clarify the requirement to separately describe, and to separately itemize prices for, both parts and labor. All of the current invoice requirements for business identification, distribution of copies and maintenance of records will be retained.

¹ Chapter 20.3 (commencing with section 9880) of Division 3 of the Business and Professions Code.

FACTUAL BASIS:

I. Background.

The Bureau of Automotive Repair (Bureau) was established within the California Department of Consumer Affairs (DCA) in 1972 with the enactment of the Automotive Repair Act. The Bureau was created by Chapter 1578, Statutes 1971 (Senate Bill 51, Beilenson), which mandated a statewide automotive repair consumer protection program. In the furtherance of its mandate, the Bureau administers statewide licensing and enforcement programs.

Through its statewide offices, the Bureau conducts consumer protection services related to the automotive repair and Smog Check programs. Bureau representatives register, license and regulate automotive repair dealers, lamp and brake stations and adjusters, and Smog Check stations and technicians. The Bureau accepts and mediates complaints from the public, investigates violations of the Automotive Repair Act, Smog Check laws, and associated regulations. When appropriate, cases are referred to the Attorney General's office for administrative action, or to law enforcement authorities for civil or criminal prosecution. The Bureau shares the commitment of the DCA to ensure that consumers are provided information about licensees and registrants in a timely, fair and equitable manner.

For decades the Automotive Repair Act has required disclosure, authorization and documentation regarding estimates, revised estimates and invoices in order to decrease or prevent the occurrence of what was commonly called "the five o'clock surprise." Prior to enactment of the Automotive Repair Act, it was not uncommon for a customer to arrive at the automotive repair dealer, at or near closing time, to pick up their vehicle only to learn for the first time that a \$100 repair estimate had, for example, somehow increased to an \$800 repair bill. In these situations the consumer is at a distinct disadvantage – the shop has the car, the consumer needs it back. Generally, the only immediate solution to this problem was to pay the bill and try to work it out later. The statutes and regulations regarding estimates, revised estimates and invoices have provided the Bureau and the automotive repair industry, with the necessary tools to prevent "the five o'clock surprise" and/or assist consumers who may be victims of it.

II. Specific Proposal.

Although it is a common practice for the repair industry to include itemized prices for both parts and labor on their invoices, from time-to-time, consumer complaints will arise when an ARD chooses to deny a customer this information. When this happens, BAR staff finds it difficult to hold the ARD to this common industry trade practice, because current regulations do not expressly state that labor actions (service) must be individually itemized. Further, current regulations do not expressly require that individual prices for each part or service be listed on the invoice. This results in the consumer being denied important information when an unscrupulous repair dealer has something to hide. This is

an issue that has been around for a long while and should be addressed and clarified to resolve any confusion.

Business and Professions Code, Section 9884.8 currently states in part: "...*Service work and parts shall be listed separately on the invoice, which shall also state separately the subtotal prices for service work and for parts...*"

By stating that the "*service work and parts shall be listed separately*", there is a clear intent that this listing should include both a description and a price. By requiring that subtotal prices be also included, it is clear that itemized prices must have been used to arrive at the subtotals.

California Code of Regulations, section 3356 currently states in part "...*the invoice shall describe all service work done ... and shall separately identify each part in such a manner that the customer can understand what was purchased,...*"

The regulation states that the parts must be separately identified on the invoice, but fails to expressly state that labor actions must be itemized, or that the price of each labor action and part must be included. An important part of knowing what was purchased must necessarily include the individual price for an item. While it is implied that individual prices must be included, it is important that this requirement be clearly and specifically stated.

Furthermore, in order to adequately identify a part "*in such a manner that the customer can understand what was purchased,*" one of the clearest and most descriptive methods is to include the brand name or comparable designation in the description for each part. The inclusion of this information, together with the information currently specified, should make it clear to the customer exactly what is being purchased.

The foundation of the Automotive Repair act is set on the concepts of full disclosure and informed authorization. This is the general theme that runs through most of the Bureau's regulations. The proposed action will clarify and reinforce this concept in the requirement to provide customers with itemized invoices.

Underlying Data:

None.

Business Impact:

These regulations will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

The proposed action merely clarifies existing statutory requirements and the provisions of current regulation. In addition, the proposed action will recognize a current industry standard of practice adhered to by almost all automotive repair dealers. Therefore, the proposed action will not require the industry to do anything any differently than they do now, and there will be no impact from the changes to current regulation.

Specific Technologies or Equipment:

These regulations do not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

No alternatives have been identified or brought to the attention of the Bureau.